



Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Seventeenth Meeting Day

Thursday Morning

February 10, 2005

The House convened at 10:00 a.m. with the Speaker in the Chair.

The invocation was offered by Evangelist Phillip Messer, Teaberry Hills Estates Church, Francisville, the guest of Representative Mary Kay Budak.

The Pledge of Allegiance to the Flag was led by Representative David N. Frizzell.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak ☐	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks ☐	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders ☐
Dobis	J. Smith
Dodge ☐	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins ☐
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 109: 95 present; 5 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Act 1003 on February 9.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Bill 1022 and the same is herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 43, 67, 101, 111, 114, 125, 140, 172, 208, 241, 264, 265, 278, 293, 301, 334, 341, 352, 420, 433, 444, 484, 554, 574, 598, 612, 615, and 619 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 10 and 11 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE GOVERNOR

Mr. Speaker and Members of the House: On February 9, 2005, I signed into law House Enrolled Act 1003.

MITCHELL E. DANIELS, JR.
Governor

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Monday, February 14, 2005 at 1:30 p.m.

BECKER

Motion prevailed.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 13

Representatives Micon and Grubb introduced House Concurrent Resolution 13:

A CONCURRENT RESOLUTION recognizing the Williamsport Review-Republican newspaper.

Whereas, December 20, 2004, marked the beginning of the 150th year of continuous publication for the Williamsport Review-Republican newspaper;

Whereas, The Williamsport Review-Republican published its first volume on December 20, 1854, providing Warren County, Fountain County, and Benton County residents news with a local flavor;

Whereas, Although it provides national news to its readers, it is the local information that has kept the Williamsport Review-Republican alive for 150 years;

Whereas, The Williamsport Review-Republican covers Seeger High School sports, trials, police news, county fairs, town festivals, reunions, and other events that other newspapers do not cover;

Whereas, It gives its 3,400 readers information they are unable to get from the national newspapers or television news broadcasts;

Whereas, The Williamsport Review-Republican newspaper gives readers a look at life around them by telling them about what is happening in their own communities;

Whereas, Small towns and small town newspapers are the lifeline of Indiana history, and it is through these entities that Indiana maintains its famous Hoosier hospitality; and

Whereas, The Williamsport Review-Republican newspaper has been bringing this information to people in Warren County, Fountain County, Benton County, and places beyond for 150 years: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the members of the Indiana General Assembly thank the owners and staff of the Williamsport Review-Republican newspaper for providing information with a hometown feel for more than 150 years. It is through the efforts of these wonderful people that the heart and soul of Indiana will be kept alive forever.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Lee Ann Akers, editor of the Williamsport Review-Republican.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Harrison and Skinner.

Representative Wolkins, who had been excused, was present.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1268

Representative Pond called down Engrossed House Bill 1268 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 110: yeas 74, nays 21. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Ford, Lewis, Alting, and R. Young.

Engrossed House Bill 1402

Representative Borders called down Engrossed House Bill 1402 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 111: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Waterman.

With consent of the members, the House returned to House Bills on second reading.

HOUSE BILLS ON SECOND READING

House Bill 1653

Representative Wolkins called down House Bill 1653 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

With consent of the members, the House returned to reports from committees.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1247, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1315, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 34, after "Sec. 1.5." insert "(a) **This section does not apply to an off-road vehicle that is at least five (5) model years old.**

(b)".

Page 4, between lines 22 and 23, begin a new paragraph and insert: "SECTION 14. IC 9-29-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The fee for a delinquent title is ten dollars (\$10). Except as provided in subsections (b), ~~and~~ (c), ~~and~~ (d), the bureau shall collect this fee when a purchaser or transferee fails to apply for an original certificate of title or a transfer of title, by assignment, within thirty-one (31) days after the vehicle is purchased or otherwise acquired. This fee is in addition to all other fees imposed for the issuance of a certificate of title.

(b) A dealer who titles a vehicle in the dealership's name for purposes of putting the vehicle in rental, leasing, or demonstrating service is not required to pay a delinquent title fee under this section, but shall pay the following for each title:

(1) The title fee under section 3 of this chapter.

(2) A service charge under IC 9-29-3.

(c) A dealer who titles a vehicle in the dealership's name for the purpose of selling the vehicle shall pay the following:

(1) The title fee under section 3 of this chapter.

(2) A service charge under IC 9-29-3.

(d) **IC 9-17-2-1.5 applies to the purchase or acquisition of an off-road vehicle that is less than five (5) model years old.**

SECTION 15. IC 14-8-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. "Alcoholic beverage", for purposes of IC 14-16-1, has the meaning set forth in IC 14-16-1-1.5.**

SECTION 16. IC 14-16-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. As used in this chapter, "alcoholic beverage" has the meaning set forth in IC 7.1-1-3-5."**

Page 4, after line 28, begin a new paragraph and insert:

"SECTION 18. IC 14-16-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) A dealer shall maintain in safe operating condition all vehicles rented, leased, or furnished by the dealer. The dealer or the dealer's agents or employees shall explain the operation of a vehicle being rented, leased, or furnished. If the dealer or the dealer's agent or employee believes the person to whom the vehicle is to be rented, leased, or furnished is not competent to operate the vehicle with safety to the person or others, the dealer or the dealer's agent or employee shall refuse to rent, lease, or furnish the vehicle.

(b) A dealer renting, leasing, or furnishing a vehicle shall carry a policy of liability insurance subject to minimum limits, exclusive of interest and costs, with respect to the vehicle as follows:

(1) Twenty thousand dollars (\$20,000) for bodily injury to or death of one (1) person in any one (1) accident.

(2) Subject to the limit for one (1) person, forty thousand dollars (\$40,000) for bodily injury to or death of at least two (2)

persons in any one (1) accident.

(3) Ten thousand dollars (\$10,000) for injury to or destruction of property of others in any one (1) accident.

(c) In the alternative, a dealer may demand and must be shown proof that the person renting, leasing, or being furnished a vehicle carries a liability policy of at least the type and coverage specified in subsection (b).

(d) A dealer:

(1) shall prepare an application for a certificate of title as required by IC 9-17-2-1.5 for a purchaser of an off-road vehicle; and

(2) may charge a processing fee for this service that may not exceed ten dollars (\$10).

(e) This subsection does not apply to an off-road vehicle that is at least five (5) model years old. After January 1, 2008, a dealer may not have on its premise an off-road vehicle that does not have a certificate of:

(1) origin from its manufacturer; or

(2) title issued by;

(A) the bureau of motor vehicles or its equivalent in another state; or

(B) a foreign country.

SECTION 19. IC 14-16-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) An individual shall not operate a vehicle under any of the following conditions:

(1) At a rate of speed greater than is reasonable and proper having due regard for existing conditions or in a manner that unnecessarily endangers the person or property of another.

(2) While:

(A) under the influence of ~~intoxicating liquor~~; **an alcoholic beverage**; or

(B) unlawfully under the influence of a narcotic or other habit forming or dangerous depressant or stimulant drug.

(3) During the hours from thirty (30) minutes after sunset to thirty (30) minutes before sunrise without displaying a lighted headlight and a lighted taillight.

(4) In a forest nursery, a planting area, or public land posted or reasonably identified as an area of forest or plant reproduction and when growing stock may be damaged.

(5) On the frozen surface of public waters within:

(A) one hundred (100) feet of an individual not in or upon a vehicle; or

(B) one hundred (100) feet of a fishing shanty or shelter; except at a speed of not more than five (5) miles per hour.

(6) Unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(7) Within one hundred (100) feet of a dwelling between midnight and 6:00 a.m., except on the individual's own property or property under the individual's control or as an invited guest.

(8) On any property without the consent of the landowner or tenant.

(9) While transporting on or in the vehicle a firearm unless the firearm is:

(A) unloaded; and

(B) securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(10) On or across a cemetery or burial ground.

(11) Within one hundred (100) feet of a slide, ski, or skating area, except for the purpose of servicing the area.

(12) On a railroad track or railroad right-of-way, except railroad personnel in the performance of duties.

(13) In or upon a flowing river, stream, or creek, except for the purpose of crossing by the shortest possible route, unless the river, stream, or creek is of sufficient water depth to permit movement by flotation of the vehicle at all times.

(14) An individual shall not operate a vehicle while a bow is present in or on the vehicle if the nock of an arrow is in position on the string of the bow.

(b) Subsection (a)(9) does not apply to a person who is carrying a handgun if the person:

(1) has been issued an unlimited handgun license to carry a

handgun under IC 35-47-2; or

(2) is not required to possess a license to carry a handgun under IC 35-47-2-2.

SECTION 20. IC 14-16-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) Except as provided in ~~subsection (b)~~, **subsections (b) and (c)**, a person who violates this chapter commits a Class C infraction.

(b) A person who violates section ~~18~~; **18(a), 18(b), 18(c)**, 23(1), 23(2), or 24 of this chapter commits a Class B misdemeanor.

(c) A person who violates section 18(d) or 18(e) of this chapter commits a Class A infraction."

Renumber all SECTIONS consecutively.

(Reference is to HB 1315 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 2.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1393, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 6, nays 4.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1495, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 27, delete "at its own cost,".

Page 2, line 30, after "maintenance." insert **"The cost of the maintenance may be wholly or partially borne by the department, county, city, or town upon agreement with the railroad."**

Page 2, delete lines 31 through 35.

Page 2, line 36, delete "(g)" and insert **"(f)"**.

Page 2, line 39, delete "(h)" and insert **"(g)"**.

Page 2, line 41, delete "(i)" and insert **"(h)":"**.

Page 3, line 4, delete "(i)" and insert **"(h)"**.

Page 3, after line 11, begin a new paragraph and insert:

"SECTION 2. IC 9-13-2-117.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 117.7. "Operating crew member", for purposes of IC 9-19-6, has the meaning set forth in IC 9-19-6-1.5.

SECTION 3. IC 9-19-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. "Operating crew member" has the meaning set forth in IC 8-9-12-2.

SECTION 4. IC 9-19-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) A vehicle may be equipped with lamps that may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking, or passing. The vehicles, when so equipped, may display the warning in addition to any other warning signals required by this article.

(b) A lamp used to display a warning to the front must be mounted at the same level and as widely spaced laterally as practicable, and must display simultaneously flashing white or amber lights or any shade of color between white and amber.

(c) A lamp used to display a warning to the rear must be mounted at the same level and as widely spaced laterally as practicable, and must show simultaneously flashing amber or red lights or any shade of color between red and amber.

(d) A warning light must be visible from a distance of not less than five hundred (500) feet under normal atmospheric conditions at night.

(e) A motor vehicle used to transport operating crew members

may display a lamp placed on the top of the motor vehicle with simultaneously flashing yellow or amber lights that must be visible as set forth in subsection (d).".

Renumber all SECTIONS consecutively.

(Reference is to HB 1495 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1537, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-18-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A person who owns a vehicle must sign an application in ink to register the vehicle.

(b) An application to register a vehicle must contain the following:

(1) The:

(A) name, bona fide residence, and mailing address, including the name of the county, of the person who owns the vehicle; or

(B) business address, including the name of the county, of the person that owns the vehicle if the person is a firm, a partnership, an association, a corporation, a limited liability company, or a unit of government.

If the vehicle that is being registered has been leased and is subject to the motor vehicle excise tax under IC 6-6-5 or the commercial vehicle excise tax under IC 6-6-5.5, the application must contain the address of the person who is leasing the vehicle. If the vehicle that is being registered has been leased and is not subject to the motor vehicle excise tax under IC 6-6-5 or the commercial vehicle excise tax under IC 6-6-5.5, the application must contain the address of the person who owns the vehicle, the person who is the lessor of the vehicle, or the person who is the lessee of the vehicle. If a leased vehicle is to be registered under the International Registration Plan, the registration procedures are governed by the terms of the plan.

(2) A brief description of the vehicle to be registered, including the following information if available:

(A) The name of the manufacturer of the vehicle.

(B) The vehicle identification number.

(C) The manufacturer's rated capacity if the vehicle is a truck, tractor, trailer, or semitrailer.

(D) The type of body of the vehicle.

(E) The model year of the vehicle.

(F) Any other information reasonably required by the bureau to enable the bureau to determine if the vehicle may be registered. The bureau may request the person applying for registration to provide the vehicle's odometer reading.

(3) A space on the application in which the person registering the vehicle may indicate the person's desire to donate money to organizations that promote the procurement of organs for anatomical gifts. The space on the application must:

(A) allow the person registering the vehicle to indicate the amount the person desires to donate; and

(B) provide that the minimum amount a person may donate is one dollar (\$1).

Funds collected under this subdivision shall be deposited with the treasurer of state in a special account. The auditor of state shall monthly distribute the money in the special account to the anatomical gift promotion fund established by IC 16-19-3-26. The bureau may deduct from the funds collected under this subdivision the costs incurred by the bureau in implementing and administering this subdivision.

(4) A space on the application in which the person registering the vehicle may indicate the person's desire to donate a minimum of one dollar (\$1) to the fire services fund established by IC 10-15-3-1(a)(2), to be used for grants

to units of local governments (as defined in IC 10-15-1-8) to purchase fire equipment for volunteer fire departments (as defined in IC 36-8-12-2). Donations collected under this subdivision shall be deposited with the treasurer of state in a special account, known as the fire equipment grant account, with a record made of the county from which each donation came. The auditor of state shall monthly:

(A) distribute the money in the fire equipment grant account to the fire services fund established by IC 10-15-3-1(a)(2); and

(B) report to the Indiana emergency management, fire and building services, and public safety training foundation established by IC 10-15-2-1 the amount of donations made in each county during the preceding month.

The bureau may deduct from the funds collected under this subdivision the costs incurred by the bureau in implementing and administering this subdivision.

(c) The department of state revenue may audit records of persons who register trucks, trailers, semitrailers, buses, and rental cars under the International Registration Plan to verify the accuracy of the application and collect or refund fees due.

SECTION 2. IC 10-15-1-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. "Volunteer fire department" has the meaning set forth in IC 36-8-12-2.

SECTION 3. IC 10-15-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The following funds are established:

(1) Emergency management fund.

(2) Fire services fund.

(3) Building services fund.

(4) Emergency medical services fund.

(5) Stewardship fund.

(b) The funds established by subsection (a)(1) through (a)(4) consist of:

(1) gifts and proceeds received under section 5 of this chapter; and

(2) fees from license plates as set forth in section 6 of this chapter.

(c) The stewardship fund established by subsection (a)(5) consists of fees from license plates as set forth in section 6 of this chapter.

(d) The fire services fund established by subsection (a)(2) also consists of money received under IC 9-18-2-16(b)(4) from donations from persons registering vehicles.

SECTION 4. IC 10-15-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The money in the emergency management fund shall be used to pay for projects of the agency.

(b) Except as provided in section 2.5 of this chapter, the money in the fire services fund shall be used to pay for projects of the office of the state fire marshal.

(c) The money in the building services fund shall be used to pay for projects of the office of the state building commissioner.

(d) The money in the emergency medical services fund shall be used to pay for emergency medical services projects of the agency.

(e) The money in the stewardship fund shall be used to pay for the promotion of safety first license plates under IC 9-18-45 and for the costs of administering this article.

SECTION 5. IC 10-15-3-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) This section applies to a unit of local government for which a volunteer fire department provides fire protection services.

(b) The foundation shall use money in the fire services fund that is received from donations from persons registering vehicles under IC 9-18-2-16(b)(4) for grants as provided in subsection (c) to units of local government for the purchase of fire equipment for the volunteer fire departments that provide fire protection services for the units of local government.

(c) A unit of local government may apply to the foundation for a grant under this section at any time. The foundation shall determine a process and schedule for grant applications. The

foundation shall determine the amount of grants to be distributed to each eligible entity. The total amount of grants distributed to all units of local government in a county during a grant application period may not exceed the amount of donations made in each county under IC 9-18-2-16(b)(4) during the preceding grant application period.

(d) If there is not sufficient money in the fire services fund for a fire equipment grant to a unit of local government in a particular county, other funds from the fire services fund may be provided to complete the amount needed to provide a grant for fire equipment to that unit of local government.

(e) A unit of local government that receives a grant under this section may not purchase fire equipment for a private entity. If the recipient of fire equipment purchased with a grant received under this section ceases to exist or no longer uses the fire equipment, the recipient shall return the fire equipment to the unit of local government that applied for the grant used to purchase the fire equipment for redistribution.

(f) A unit of local government that receives a grant under this section may, at the discretion of the foundation, receive grants from the foundation in addition to a grant under this section for the purchase of fire equipment.

SECTION 6. IC 10-15-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. Gifts of money to the funds or the foundation, **including donations from persons registering vehicles under IC 9-18-2-16(b)(4)**, or the proceeds from the sale of gifts donated to the funds or the foundation shall be deposited in the designated fund.

SECTION 7. P.L.205-2003, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 45. (a) Notwithstanding IC 16-31-3.5-3(a), as added by this act, the prohibition against an individual acting as an emergency medical dispatcher unless the individual is certified by the Indiana emergency medical services commission as an emergency medical dispatcher does not apply to an individual before July 1, ~~2005~~. **2006**.

(b) Notwithstanding IC 16-31-3.5-3(b), as added by this act, the prohibition against a person acting as an emergency medical dispatch agency unless the person is certified by the Indiana emergency medical services commission as an emergency medical dispatch agency does not apply to a person before July 1, ~~2005~~. **2006**.

(c) This SECTION expires July 2, ~~2005~~. **2006**.

SECTION 8. **An emergency is declared for this act.**

(Reference is to HB 1537 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

RUPPEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1575, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-14-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. **Whenever a member of the arson division of the office retires after at least twenty (20) years of service, the office shall, in recognition of the member's service to the office, do the following:**

(1) **Allow the member to retain the service weapon issued to the member by the office.**

(2) **Issue the member a badge that indicates the member is a retired member of the arson division of the office.**

(3) **Issue the member an identification card that contains the following information:**

(A) **The name of the office and the arson division.**

(B) **The name of the member.**

(C) **The member's position title before the member's retirement.**

(D) **A statement that the member is retired.**

(E) **A statement that the member is authorized to retain the service weapon issued to the member by the office.**

SECTION 2. IC 34-30-2-152.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 152.2. IC 35-47-13-6 (Concerning the state or a law enforcement agency for issuing evidence that a retired law enforcement officer meets the training and qualification standards to carry certain firearms).".

Page 2, between lines 12 and 13, begin a new line blocked left and insert:

"A retired law enforcement officer bears any expense associated with obtaining the evidence required under this subsection."

Page 2, between lines 20 and 21, begin a new paragraph and insert:

"Sec. 6. **An entity that provides evidence required under section 5 of this chapter is immune from civil or criminal liability for providing the evidence.**"

Renumber all SECTIONS consecutively.

(Reference is to HB 1575 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

RUPPEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1580, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "volunteer firefighter against" and insert **"volunteer:**

(1) firefighter; or

(2) member of a volunteer emergency medical services association connected with a unit of government as set forth in IC 16-31-5-1(6);

against".

Page 1, line 4, delete "volunteer firefighter's" and insert **"volunteer's".**

Page 2, between lines 8 and 9, begin a new paragraph and insert:

"Essential employee" means an employee:

(1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and

(2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee."

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"Public servant" has the meaning set forth in IC 35-41-1-24."

Page 2, between lines 28 and 29, begin a new paragraph and insert:

"Volunteer member" means a member of a volunteer emergency medical services association connected with a unit as set forth in IC 16-31-5-1(6)."

Page 2, line 34, delete ";" and insert **"or volunteer member;"**.

Page 2, line 36, delete "." and insert **"or volunteer member."**

Page 3, line 8, after "department" insert **", or officer in charge of the volunteer emergency medical services association."**

Page 3, line 21, delete "As used in this subsection, "public servant" has the meaning".

Page 3, line 22, delete "set forth in IC 35-41-1-24."

Page 3, run in lines 21 through 22.

Page 3, line 31, delete ";" and insert **"or volunteer member;"**.

Page 3, line 33, delete "." and insert **"or volunteer member."**

Page 3, line 34, delete "The" and insert **"Except as provided in subsection (c), the"**.

Page 4, between lines 1 and 2, begin a new paragraph and insert:

"(c) After the employer has received the notice required under subsection (a)(2), the employer may reject the notification from the employee on the grounds that the employee is an essential employee to the employer. If the employer has rejected the notification of the employee:

(1) subsection (b) does not apply to the employee; and

(2) the employee must promptly notify the:

(A) fire chief or other officer in charge of the volunteer fire department; or

(B) the officer in charge of the volunteer emergency medical services association; of the rejection of the notice of the employee who is a volunteer firefighter or a volunteer member."

Page 4, line 2, delete "(c)" and insert "(d)".

Page 4, line 5, after "department" insert ", or officer in charge of the emergency medical services association,".

(Reference is to HB 1580 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 1.

RUPPEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1594, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 22-13-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission shall adopt rules under IC 4-22-2 and IC 22-13-2.5 to adopt a statewide code of fire safety laws and building laws.

(b) Before December 1, 2003, the commission shall adopt the most recent edition, including addenda, of the following national codes by rules under IC 4-22-2 and IC 22-13-2.5:

- (1) ANSI A10.4 (Safety Requirements for Personnel Hoists).
- (2) ASME A17.1 (Safety Code for Elevators and Escalators, an American National Standard).
- (3) ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts, American National Standard).
- (4) ASME QE1-1 (Standard for the Qualification of Elevator Inspectors, an American National Standard).
- (5) The American Society of Civil Engineers (ASCE) Automated People Mover Standard 21.
- (6) ANSI A90.1 Safety Code for Manlifts.

(c) Before July 1, 2006, the commission shall adopt the most recent edition, including addenda, of ASME A17.3 (Safety Code for Existing Elevators and Escalators, an American National Standard) by rules under IC 4-22-2 and IC 22-13-2.5.

(d) The commission shall adopt the subsequent edition of each national code, including addenda, to be adopted as provided under subsections (b) and (c) within eighteen (18) months after the effective date of the subsequent edition.

(e) The commission may amend the national codes as a condition of the adoption under subsections (b), (c), and (d).

(f) To the extent that the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, apply to tents or canopies in which cooking occurs, the commission shall suspend enforcement of the following sections of the International Fire Code, 2000 edition, until the office of the state fire marshal recommends amendments to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations:

- (1) Section 2406.1 (675 IAC 22-2.3-233).
- (2) Section 2406.2.
- (3) Section 2406.3.

(g) To the extent that section 2403.2 of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, applies to a tent or canopy in which there is an open flame, the commission shall suspend enforcement of section 2403.2 until the office of the state fire marshal recommends amendments to section 2403.2 to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations and amending section 2403.2.

(h) The office of the state fire marshal shall recommend amendments to the commission to the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

- (1) Section 2403.2.
- (2) Section 2406.1 (675 IAC 22-2.3-233).

(3) Section 2406.2.

(4) Section 2406.3.

(i) After receiving and considering recommendations from the office of the state fire marshal under subsection (h), and using the procedure set forth in IC 4-22-2-38, the commission shall amend the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

- (1) Section 2403.2.
- (2) Section 2406.1 (675 IAC 22-2.3-233).
- (3) Section 2406.2.
- (4) Section 2406.3.

SECTION 2. An emergency is declared for this act.

(Reference is to HB 1594 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

RUPPEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1597, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-8.1-3-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1 (a) Notwithstanding IC 6-8.1-3-2(b) the commissioner shall categorize salaries of criminal investigators in the criminal investigation division within each rank based upon the rank held and the number of years of service in the division through the tenth year. The salary ranges that the commissioner assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary with:

- (1) the base salary in the rank paid to a person with less than one (1) year of service in the office; and
- (2) the highest salary in the rank paid to a person with at least ten (10) years of service in the office.

(b) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation. The salary matrix may not be implemented before July 1, 2007.

(c) Beginning July 1, 2007, the salaries for criminal investigators in the criminal investigation division must be equal to the salaries of police employees of the state police department under IC 10-11-2-13, based upon years of service in the office and rank held.

(d) The requirement of subsection (c) does not affect:

- (1) any rights or liabilities accrued; or
- (2) any proceedings begun;

on or before June 30, 2005. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior civil law and procedure as if the requirement of subsection (c) had not been enacted.

SECTION 2. IC 10-11-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The board shall categorize salaries of police employees, including special police employees (as defined in section 28 of this chapter) and motor carrier inspectors (as defined in section 26 of this chapter), within each rank based upon the rank held and the number of years of service in the department through the tenth year. The salary ranges the board assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary with:

- (1) the base salary in the rank paid to a person with less than one (1) year of service in the department; and
- (2) the highest salary in the rank paid to a person with at least ten (10) years of service in the department.

(b) For purposes of creating the salary matrix prescribed by this section, the board may not approve salary ranges for any rank that are less than the salary ranges effective for that rank on January 1, 1995.

(c) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation. The

salary matrix prescribed by this section for special police employees (as defined in section 28 of this chapter) and motor carrier inspectors (as defined in section 26 of this chapter) may not be implemented before July 1, 2007.

(d) Beginning July 1, 2007, the salaries for special police employees (as defined in section 28 of this chapter) and motor carrier inspectors (as defined in section 26 of this chapter) must be equal to the salaries of other police employees, based upon years of service in the office and rank held.

SECTION 3. IC 10-18-1-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21.5. (a) The commission shall categorize salaries of employees with police powers within each rank based upon the rank held and the number of years of service in the commission through the tenth year. The salary ranges that the commission assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary with:

(1) the base salary in the rank paid to a person with less than one (1) year of service in the office; and

(2) the highest salary in the rank paid to a person with at least ten (10) years of service in the office.

(b) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation. The salary matrix may not be implemented before July 1, 2007.

(c) Beginning July 1, 2007, the salaries for employees of the commission who have police powers must be equal to the salaries of police employees of the state police department under IC 10-11-2-13, based upon years of service in the office and rank held.

(d) The requirement of subsection (c) does not affect:

(1) any rights or liabilities accrued; or

(2) any proceedings begun;

on or before June 30, 2005. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior civil law and procedure as if the requirement of subsection (c) had not been enacted."

Page 1, line 4, after "office" insert "and inspectors".

Page 1, line 15, after "implementation." insert "The salary matrix may not be implemented before July 1, 2007."

Page 1, line 16, delete "The" and insert "Beginning July 1, 2007, the"

Page 1, line 17, after "office" insert "and inspectors".

Re-number all SECTIONS consecutively.

(Reference is to HB 1597 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

RUPPEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1600, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 17, after "20-12-3.5" delete "." and insert ", including a police officer whose employer purchases coverage under section 4.5 of this chapter."

Page 2, between lines 8 and 9, begin a new line block indented and insert:

"(15) A firefighter whose employer purchases coverage under section 4.5 of this chapter.

SECTION 2. IC 5-10-10-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 4.5. (a) As used in this section, "eligible officer" means a police officer or firefighter whose employer purchases coverage under this section.

(b) As used in this section, "employer" means:

(1) a university, college, or junior college, other than a state university, state college, or state junior college, that appoints a police officer under IC 20-12-3.5; or

(2) a university, other than a state university, located in Indiana that:

(A) maintains a fire department;

(B) employs firefighters for the fire department; and

(C) is accredited by the North Central Association.

(c) If an employer purchases coverage for an eligible officer, the eligible officer is eligible for a special death benefit from the fund in the same manner that any other public safety officer is eligible for a special death benefit from the fund. The cost of the coverage shall be one hundred dollars (\$100) for each eligible officer annually. The cost of the coverage shall be paid to the board for deposit in the fund.

(d) If an employer elects to provide coverage under this section, the employer must purchase coverage for all eligible officers of the employer. The board shall allow an employer to purchase coverage by making quarterly payments on dates prescribed by the board.

SECTION 3. IC 5-10-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 5. (a) The special death benefit fund is established for the purpose of paying lump sum death benefits under section 6 of this chapter. The fund consists of the fees remitted to the ~~auditor of state~~ board under ~~IC 35-33-8-3.2~~ section 4.5 of this chapter. The fund shall be administered by the board. The expenses of administering the fund shall be paid from money in the fund.

(b) The board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as the board's other funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the board of trustees of the public employees' retirement fund.

(b) As used in this SECTION, "eligible officer" means a police officer or firefighter whose employer purchases coverage under this SECTION.

(c) As used in this SECTION, "employer" means:

(1) a university, college, or junior college, other than a state university, state college, or state junior college, that appoints a police officer under IC 20-12-3.5; or

(2) a university, other than a state university, that:

(A) is located in Indiana;

(B) maintains a fire department;

(C) employs firefighters for the fire department; and

(D) is accredited by the North Central Association.

(d) As used in this SECTION, "fund" refers to the special death benefit fund established by IC 5-10-10-5, as amended by this act.

(e) Not later than June 30, 2005, an employer may remit payment to the board to purchase coverage under IC 5-10-10-4.5, as added by this act, for all eligible officers employed by the employer during the period beginning July 1, 2004, and ending June 30, 2005. If a payment is remitted in accordance with this subsection, a special death benefit shall be paid from the fund under IC 5-10-10, as amended by this act, for any eligible officer who dies in the line of duty during the period beginning July 1, 2004, and ending June 30, 2005.

(f) This SECTION expires July 1, 2006."

Re-number all SECTIONS consecutively.

(Reference is to HB 1600 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

RUPPEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1776, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the

following:

SECTION 1. IC 35-33-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A court may issue warrants only upon probable cause, supported by oath or affirmation, to search any place for any of the following:

- (1) Property which is obtained unlawfully.
- (2) Property, the possession of which is unlawful.
- (3) Property used or possessed with intent to be used as the means of committing an offense or concealed to prevent an offense from being discovered.
- (4) Property constituting evidence of an offense or tending to show that a particular person committed an offense.
- (5) Any person.
- (6) Evidence necessary to enforce statutes enacted to prevent cruelty to or neglect of children.
- (7) A firearm possessed by a person who is dangerous (as defined in IC 35-47-13-1).**

(b) As used in this section, "place" includes any location where property might be secreted or hidden, including buildings, persons, or vehicles.

SECTION 2. IC 35-33-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) All items of property seized by any law enforcement agency as a result of an arrest, search warrant, or warrantless search, shall be securely held by the law enforcement agency under the order of the court trying the cause, except as provided in this section.

(b) Evidence that consists of property obtained unlawfully from its owner may be returned by the law enforcement agency to the owner before trial, in accordance with IC 35-43-4-4(h).

(c) Following the final disposition of the cause at trial level or any other final disposition the following shall be done:

- (1) Property which may be lawfully possessed shall be returned to its rightful owner, if known. If ownership is unknown, a reasonable attempt shall be made by the law enforcement agency holding the property to ascertain ownership of the property. After ninety (90) days from the time:

(A) the rightful owner has been notified to take possession of the property; or

(B) a reasonable effort has been made to ascertain ownership of the property;

the law enforcement agency holding the property shall, at such time as it is convenient, dispose of this property at a public auction. The proceeds of this property shall be paid into the county general fund.

(2) Except as provided in subsection (e), property, the possession of which is unlawful, shall be destroyed by the law enforcement agency holding it sixty (60) days after final disposition of the cause.

(3) A firearm that has been seized from a person who is dangerous (as defined in IC 35-47-13-1) shall be retained, returned, or disposed of in accordance with IC 35-47-13.

(d) If any property described in subsection (c) was admitted into evidence in the cause, the property shall be disposed of in accordance with an order of the court trying the cause.

(e) A law enforcement agency may destroy or cause to be destroyed chemicals or controlled substances associated with the illegal manufacture of drugs or controlled substances without a court order if all the following conditions are met:

(1) The law enforcement agency collects and preserves a sufficient quantity of the chemicals or controlled substances to demonstrate that the chemicals or controlled substances were associated with the illegal manufacture of drugs or controlled substances.

(2) The law enforcement agency takes photographs of the illegal drug manufacturing site that accurately depict the presence and quantity of chemicals and controlled substances.

(3) The law enforcement agency completes a chemical inventory report that describes the type and quantities of chemicals and controlled substances present at the illegal manufacturing site.

The photographs and description of the property shall be admissible into evidence in place of the actual physical evidence.

(f) For purposes of preserving the record of any conviction on

appeal, a photograph demonstrating the nature of the property, and an adequate description of the property must be obtained before the disposition of it. In the event of a retrial, the photograph and description of the property shall be admissible into evidence in place of the actual physical evidence. All other rules of law governing the admissibility of evidence shall apply to the photographs.

(g) The law enforcement agency disposing of property in any manner provided in subsection (b), (c), or (e) shall maintain certified records of any such disposition. Disposition by destruction of property shall be witnessed by two (2) persons who shall also attest to the destruction.

(h) This section does not affect the procedure for the disposition of firearms seized by a law enforcement agency.

(i) A law enforcement agency that disposes of property by auction under this section shall permanently stamp or otherwise permanently identify the property as property sold by the law enforcement agency.

(j) Upon motion of the prosecuting attorney, the court shall order property seized under IC 34-24-1 transferred, subject to the perfected liens or other security interests of any person in the property, to the appropriate federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice.

SECTION 3. IC 35-47-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person desiring a license to carry a handgun shall apply:

- (1) to the chief of police or corresponding law enforcement officer of the municipality in which the applicant resides;
- (2) if that municipality has no such officer, or if the applicant does not reside in a municipality, to the sheriff of the county in which the applicant resides after the applicant has obtained an application form prescribed by the superintendent; or
- (3) if the applicant is a resident of another state and has a regular place of business or employment in Indiana, to the sheriff of the county in which the applicant has a regular place of business or employment.

(b) The law enforcement agency which accepts an application for a handgun license shall collect a ten dollar (\$10) application fee, five dollars (\$5) of which shall be refunded if the license is not issued. Except as provided in subsection (h), the fee shall be:

- (1) deposited into the law enforcement agency's firearms training fund or other appropriate training activities fund; and
- (2) used by the agency for the purpose of:
 - (A) training law enforcement officers in the proper use of firearms or other law enforcement duties; or
 - (B) purchasing for the law enforcement officers employed by the law enforcement agency firearms, or firearm related equipment, or both.

The state board of accounts shall establish rules for the proper accounting and expenditure of funds collected under this subsection.

(c) The officer to whom the application is made shall ascertain the applicant's name, full address, length of residence in the community, whether the applicant's residence is located within the limits of any city or town, the applicant's occupation, place of business or employment, criminal record, if any, and convictions (minor traffic offenses excepted), age, race, sex, nationality, date of birth, citizenship, height, weight, build, color of hair, color of eyes, scars and marks, whether the applicant has previously held an Indiana license to carry a handgun and, if so, the serial number of the license and year issued, whether the applicant's license has ever been suspended or revoked, and if so, the year and reason for the suspension or revocation, and the applicant's reason for desiring a license. The officer to whom the application is made shall conduct an investigation into the applicant's official records and verify thereby the applicant's character and reputation, and shall in addition verify for accuracy the information contained in the application, and shall forward this information together with his recommendation for approval or disapproval and one (1) set of legible and classifiable fingerprints of the applicant to the superintendent.

(d) The superintendent may make whatever further investigation the superintendent deems necessary. Whenever disapproval is recommended, the officer to whom the application is made shall provide the superintendent and the applicant with the officer's complete and specific reasons, in writing, for the recommendation of

disapproval.

(e) If it appears to the superintendent that the applicant has a proper reason for carrying a handgun and is of good character and reputation and a proper person to be so licensed, the superintendent shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the superintendent for at least four (4) years. This license shall be valid for a period of four (4) years from the date of issue. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of service, shall be valid for the life of such individuals. However, such lifetime licenses are automatically revoked if the license holder does not remain a proper person.

(f) At the time a license is issued and delivered to a licensee under subsection (e), the superintendent shall include with the license information concerning handgun safety rules that:

- (1) neither opposes nor supports an individual's right to bear arms; and
- (2) is:
 - (A) recommended by a nonprofit educational organization that is dedicated to providing education on safe handling and use of firearms;
 - (B) prepared by the state police department; and
 - (C) approved by the superintendent.

The superintendent may not deny a license under this section because the information required under this subsection is unavailable at the time the superintendent would otherwise issue a license. The state police department may accept private donations or grants to defray the cost of printing and mailing the information required under this subsection.

(g) A license to carry a handgun shall not be issued to any person who:

- (1) has been convicted of a felony;
- (2) has had a license to carry a handgun suspended, unless the person's license has been reinstated;**
- ~~(2)~~ (3) is under eighteen (18) years of age;
- ~~(3)~~ (4) is under twenty-three (23) years of age if the person has been adjudicated a delinquent child for an act that would be a felony if committed by an adult; or
- ~~(4)~~ (5) has been arrested for a Class A or Class B felony, or any other felony that was committed while armed with a deadly weapon or that involved the use of violence, if a court has found probable cause to believe that the person committed the offense charged.

In the case of an arrest under subdivision ~~(4)~~ (5), a license to carry a handgun may be issued to a person who has been acquitted of the specific offense charged or if the charges for the specific offense are dismissed. The superintendent shall prescribe all forms to be used in connection with the administration of this chapter.

(h) If the law enforcement agency that charges a fee under subsection (b) is a city or town law enforcement agency, the fee shall be deposited in the law enforcement continuing education fund established under IC 5-2-8-2.

(i) If a person who holds a valid license to carry a handgun issued under this chapter:

- (1) changes the person's name; or
- (2) changes the person's address;

the person shall, not later than sixty (60) days after the date of the change, notify the superintendent, in writing, of the person's new name or new address.

(j) The state police shall indicate on the form for a license to carry a handgun the notification requirements of subsection (i).

SECTION 4. IC 35-47-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 13. Proceedings for the Seizure and Retention of a Firearm

Sec. 1. As used in this chapter, "dangerous" means:

- (1) a person presents an imminent risk of personal injury to the person or to another person;
- (2) a person may present a risk of personal injury to the person or to another person in the future; or
- (3) if the person has a mental illness that may be controlled by medication, the person has not demonstrated a pattern of voluntarily and consistently taking the person's medication while not under supervision.

The fact that a person has been released from a mental health facility or has a mental illness that is currently controlled by medication does not establish that the person is dangerous.

Sec. 2. A circuit or superior court may issue a warrant to search for and seize a firearm in possession of a person who is dangerous if:

- (1) a law enforcement officer states under oath or affirmation that the law enforcement officer has probable cause to believe that the person is:
 - (A) dangerous; and
 - (B) in possession of a firearm;
- (2) the statement specifically describes the location of the firearm; and
- (3) the circuit or superior court determines that probable cause exists to believe that the person is:
 - (A) dangerous; and
 - (B) in possession of a firearm.

Sec. 3. (a) If a law enforcement officer seizes a firearm from a person whom the law enforcement officer believes to be dangerous without obtaining a warrant, the law enforcement officer shall submit to the circuit or superior court having jurisdiction over the person believed to be dangerous a written statement under oath or affirmation describing the basis for the law enforcement officer's belief that the person is dangerous.

(b) The court shall review the written statement described in subsection (a). If the court finds that probable cause exists to believe that the person is dangerous, the court shall order the law enforcement agency having custody of the firearm to retain the firearm. If the court finds that there is no probable cause to believe that the person is dangerous, the court shall order the law enforcement agency having custody of the firearm to return the firearm to the person.

(c) This section does not authorize a law enforcement officer to perform a warrantless search or seizure if a warrant would otherwise be required.

Sec. 4. (a) Unless a court orders the return of the firearm under section 3(b) of this chapter, the law enforcement agency that seized the firearm shall retain custody of the firearm.

(b) If a court issued a warrant to seize a firearm under this chapter, the law enforcement officer who served the warrant shall, not later than forty-eight (48) hours after the warrant was served, file a return with the court, stating:

- (1) that the warrant was served;
- (2) the time and date on which the warrant was served;
- (3) the name and address of the person named in the warrant; and
- (4) the quantity and identity of any firearms seized by the law enforcement officer.

Sec. 5. (a) Not later than fourteen (14) days after a return is filed under section 4 of this chapter, or a written statement is filed under section 3 of this chapter, the court shall conduct a hearing to determine whether the seized firearm should be:

- (1) returned to the person from whom the firearm was seized; or
- (2) retained by the law enforcement agency having custody of the firearm.

(b) The court shall set the hearing date as soon as possible after the return is filed under section 4 of this chapter. The court shall inform the:

- (1) prosecuting attorney; and
- (2) person from whom the firearm was seized;

of the date, time, and location of the hearing. The court may conduct the hearing at a facility or other suitable place not likely to have a harmful effect upon the person's health or well-being.

Sec. 6. (a) At a hearing conducted under section 5 of this chapter, the state has the burden of proving all material facts by

clear and convincing evidence.

(b) If the court determines that the state has proved by clear and convincing evidence that the person is dangerous, the court may order that the law enforcement agency having custody of the seized firearm retain the firearm for not more than one (1) year. In addition, if the person has received a license to carry a handgun, the court shall suspend the person's license to carry a handgun. If the court determines that the state has failed to prove that the person is dangerous, the court shall order the law enforcement agency having custody of the firearm to return it to the person from whom it was seized.

(c) If a court orders a law enforcement agency to retain a firearm, the court shall establish a date certain upon which the firearm is to be returned to the person from whom it was seized, unless the firearm retention period is extended under section 8 of this chapter.

Sec. 7. If the court determines that:

- (1) a person is dangerous; and
- (2) a firearm seized from the person is owned by another person;

the court may order the law enforcement agency having custody of the firearm to return the firearm to the owner.

Sec. 8. (a) If the court has ordered the law enforcement agency having custody of a firearm to retain the firearm under section 6 of this chapter, the state may seek to extend the firearm retention period by filing a petition to extend the firearm retention period.

(b) A petition to extend the firearm retention period:

- (1) must be filed at least thirty (30) days before the date certain described in section 6(c) of this chapter; and
- (2) may not request that the court order the law enforcement agency to retain a firearm for a period longer than the duration of the original retention period established by the court under section 6 of this chapter.

(c) Upon receipt of a petition to extend the firearm retention period, the court shall:

- (1) set a date for the hearing; and
- (2) inform all parties to the hearing of the date, time, and location of the hearing.

(d) A hearing under this section shall be conducted according to the same standards and in the same manner as set forth in sections 5 and 6 of this chapter.

(e) If:

- (1) the court finds that the state has failed to prove that the person is still dangerous; or
- (2) the state has not timely filed a petition to extend the firearm retention period;

the court shall order the law enforcement agency having custody of the firearm to return the firearm to the person on the date certain described in section 6(c) of this chapter. In addition, if the court suspended the person's license to carry a handgun under section 6(b) of this chapter, the court shall reinstate the person's license to carry a handgun, unless it appears that the person is no longer a proper person.

Sec. 9. If at least five (5) years have passed since the court conducted the first hearing to retain a firearm under this chapter, after giving notice to the parties and conducting a hearing, the court may order the law enforcement agency having custody of the firearm to destroy or otherwise permanently dispose of the firearm.

(Reference is to HB 1776 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

RUPPEL, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Reassignments

The Speaker announced the reassignment of House Bill 1847 from the Committee on Rules and Legislative Procedures to the Committee on Environmental Affairs.

HOUSE MOTION

Mr. Speaker: I move that Representative V. Smith be added as coauthor of House Bill 1134.

HEIM

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Foley, Dvorak, and Thomas be added as coauthors of House Bill 1175.

BURTON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Dobis and Cherry be added as coauthors of House Bill 1188.

McCLAIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Dickinson be added as coauthor of House Bill 1197.

THOMPSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Reske be added as coauthor of House Bill 1222.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Leonard be added as coauthor of House Bill 1367.

HOFFMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kromkowski be added as coauthor of House Bill 1419.

WOODRUFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1429.

TURNER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stilwell be added as coauthor of House Bill 1540.

WOODRUFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bright be removed as author, Ruppel be removed as coauthor, and Representative Ruppel be substituted as author of House Bill 1578.

BRIGHT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative GiaQuinta be removed as author, Representative Burton be removed as coauthor, and Representative Burton be substituted as author of House Bill 1763.

GIA QUINTA

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Austin and GiaQuinta be added as coauthors of House Bill 1763.

BURTON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kromkowski be added as coauthor of House Bill 1779.

BUELL

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative GiaQuinta, the House adjourned at 10:45 a.m., this tenth day of February, 2005, until Monday, February 14, 2005, at 1:30 p.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives